



U.S. Department of Justice

*United States Attorney
Eastern District of New York*

JHK:DCL:MMO

*610 Federal Plaza
Central Islip, New York 11722*

January 29, 2020

Honorable Joseph F. Bianco
United States Circuit Judge
Court of Appeals for the Second Circuit
Long Island Federal Courthouse
Central Islip, New York 11722

Re: United States v. Kenner and Constantine
No. CR-13-607 (S-2) (JFB)

Dear Judge Bianco:

This letter is respectfully submitted pursuant to the Court's January 22, 2020 directive to provide the Court with forfeiture money judgment charts for Defendants Phillip Kenner ("Kenner") and Tommy Constantine ("Constantine").

I. Forfeiture Money Judgment Calculation for Constantine

The Court directed the Government to provide a forfeiture money judgment chart for Constantine that includes the proceeds and/or property involved in the following schemes or frauds: Hawaii investment, Centrum Loan, Eufora, and the Global Settlement Fund. *See Transcript dated January 22, 2020 at pp. 72-73.* The chart below reflects the forfeiture money judgment calculation for Constantine limited to the above frauds.

| <u>Forfeitable Asset</u> | <u>Proceeds/Property Involved In</u> | <u>Deductions to Prevent Double Counting</u> | <u>Money Judgment Amount</u> |
|----------------------------------|--------------------------------------|--|------------------------------|
| GSF | \$3,130,000.00 | \$615,147.00 | \$2,514,853.00 |
| Victims' Hawaii Investment Money | \$2,415,000.00 | | \$2,415,000.00 |
| Eufora Frauds | \$1,625,000.00 | | \$1,625,000.00 |
| Centrum Loan Fraud | \$3,500,000.00 | \$1,500,000.00 | \$2,000,000.00 |
| Total | \$10,670,000.00 | \$2,115,147.00 | \$8,554,853.00 |

II. Forfeiture Money Judgment Calculation for Constantine Including the Palms Transactions

As discussed at the status conference, the Court also indicated that the Government may address Constantine's concessions regarding the proceeds and/or property involved in the Peca Palms Unit, Moreau Palms Units and McKee Palms Unit transactions (collectively, the "Palms Transactions"). *See* Transcript dated January 22, 2020 at pp. 72-73.

Constantine conceded that he participated in the Palms Transactions and obtained lines of credit proceeds during the course of the Palms Transactions. *See, e.g.*, Memorandum of Law in Response to the Government's Motion for Entry of an Order of Forfeiture, Docket Entry ("DE") 599 ("Constantine Opp.") at p. 8 ("The government first alleges that \$500,000.00 was stolen from Rucchin's and Norstrom's line of credit. . . Of that \$500,000, . . . Constantine 'acquired' \$345,000.00."); *Id.* at 11 ("As part of the purchase process, a Constantine account also received a \$330,000.00 deposit from the [sic] one of the same Kenner accounts. This account contained money from the hockey players' lines of credit. . . Defendant then paid \$325,000.00 towards the McKee unit deal. . . For this reason Constantine is liable for the \$330,000.000 he 'acquired.'"). Constantine thus admits that, at the very least, he is liable to forfeit those lines of credit proceeds that he acquired.

Accordingly, the chart below includes in the forfeiture money judgment calculation the Palms Transactions in which Constantine participated, including the lines of credit proceeds that Constantine conceded he acquired during the course of the Palms Transactions.

| <u>Forfeitable Asset</u> | <u>Proceeds/Property Involved In</u> | <u>Line of Credit Proceeds Included Because Constantine Admitted to Acquiring Them</u> | <u>Line of Credit Proceeds Excluded</u> | <u>Deductions to Prevent Double Counting</u> | <u>Money Judgment Amount</u> |
|----------------------------------|--------------------------------------|--|---|--|------------------------------|
| Peca Palms Unit | \$2,520,021.59 | \$345,000.00 | \$155,000.00 | | \$2,365,021.59 |
| Moreau Palms Units | \$1,246,982.00 | | \$50,000.00 | \$650,000.00 | \$546,982.00 |
| McKee Palms Unit | \$1,575,000.00 | \$330,000.00 | | | \$1,575,000.00 |
| GSF | \$3,130,000.00 | | | \$735,147.00 | \$2,394,853.00 |
| Victims' Hawaii Investment Money | \$2,415,000.00 | | | | \$2,415,000.00 |
| Eufora Frauds | \$1,625,000.00 | | | | \$1,625,000.00 |
| Centrum Loan Fraud | \$3,500,000.00 | | | \$2,150,000.00 | \$1,350,000.00 |
| Total | \$16,012,003.59 | \$675,000.00 | \$205,000.00 | \$3,535,147.00 | \$12,271,856.59 |

III. Forfeiture Money Judgment Calculation for Kenner

For the Court's convenience, the government provides the previously submitted chart for the forfeiture money judgment calculation for Kenner.

| <u>Forfeitable Asset</u> | <u>Proceeds/ Property Involved In</u> | <u>Deductions to Prevent Double Counting</u> | <u>Money Judgment Amount</u> |
|----------------------------------|--|---|-------------------------------------|
| Frailes | \$ 7,220,000.00 | - | \$ 7,220,000.00 |
| Peca Palms Unit | \$ 2,520,021.59 | - | \$ 2,520,021.59 |
| Moreau Palms Units | \$ 1,246,982.00 | \$ 650,000.00 | \$ 596,982.00 |
| McKee Palms Unit | \$ 1,570,000.00 | - | \$ 1,570,000.00 |
| Del Mar | \$ 10,845,650.00 | - | \$ 10,845,650.00 |
| GSF | \$ 3,130,000.00 | \$ 735,147.00 | \$ 2,394,853.00 |
| Victims' Lines of Credit | \$ 9,851,542.00 | \$ 3,555,000.00 | \$ 6,296,542.00 |
| Victims' Hawaii Investment Money | \$ 2,415,000.00 | \$ 45,000.00 | \$ 2,370,000.00 |
| Eufora Frauds | \$ 1,625,000.00 | - | \$ 1,625,000.00 |
| Centrum Loan Fraud | \$ 3,500,000.00 | \$ 2,200,000.00 | \$ 1,300,000.00 |
| Total | \$ 43,924,195.59 | \$ 7,185,147.00 | \$ 36,739,048.59 |

Respectfully submitted,

RICHARD P. DONOGHUE
United States Attorney

By: /s/ Madeline O'Connor
Madeline O'Connor
Diane C. Leonardo
Assistant U.S. Attorneys
(631) 715-7870
(631) 715-7854

cc: Philip Kenner, by mail
All counsel of record by ECF